

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed August 6, 2007. Upon entry of this response, claims 2-11, 13-38, 40-51, 54-59, and 61-66 are pending in the application. In this response, claims 46, 51, and 54-56 have been amended, and claims 52-53 have been cancelled. Applicant respectfully requests that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

1. Allowable Subject Matter

Applicant appreciates the Examiner's allowance of claims 2-11, 13-38, 40-45, and 61-66. Applicant also acknowledge the Examiner's indication in the Office Action that Claims 47-50 and 54-59 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. However, dependent claims 47-50 and 54-59 have not been rewritten in independent form, since Applicant believes that independent claims 46 and 51 are allowable for the reasons described herein.

In the present Office Action, and in the previous Office Action, the Examiner has withdrawn allowability of certain allowable subject matter. The present Office Action (p. 2) states that this withdrawal resulted from "newly discovered references". Applicant notes, however, that the newly cited reference is a U.S. patent (6,014,371) which issued well before the previous search. Therefore, the new rejections appear to result more from an incomplete initial search, rather than an updated search. Applicant notes the admonition in MPEP 707.07(g) against piecemeal examination, and submits that such piecemeal examination imposes an undue cost on applicants in the examination process. In responding to the present rejection, Applicant assumes that the Examiner has now made all relevant art of record, and that the art now of record reflects the results of a thorough search of the embodiments of the specification as well as the claims, as required by MPEP 904.

2. Rejection of Claims 46 and 51-53 under 35 U.S.C. §102

Claims 46 and 51-53 have been rejected under §102(e) as allegedly anticipated by *Betts* (U.S. 6,014,371). Applicant respectfully submits that the rejection has been overcome by claim amendments made herein. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

a. Claim 46

Claim 46 has been amended to recite “assigning a CPE selector identifier to each CPE modem based on the training process”. Applicant respectfully submits that *Betts* fails to teach, disclose, or suggest at least this feature.

The Office Action alleges that *Betts* teaches “assigning a CPE selector to teach CPE modem” at FIG. 3 and Col. 5, lines 5-6. Applicant respectfully disagrees. FIG. 3 of *Betts* is merely a block diagram of a control modem 13 and three remote modems 18. Neither FIG. 3 itself nor the corresponding portion of the specification discusses “assigning” or a “CPE selector identifier” at all. Col. 5, lines 5-6 of *Betts* does state that a remote modem 18 has an associated address. Even assuming, for the sake of argument, that the remote modem address corresponds to the recited “CPE selector”, *Betts* does not disclose that this address is assigned by the control modem. In contrast, claim 46 positively recites the step of “assigning a CPE selector identifier to each CPE modem” where the step is “performed by a CO modem”.

Amended claim 46 also recites “assigning...based on the training process”. Even assuming, for the sake of argument, that *Betts* implicitly discloses that the control modem 13 assigns the address to the remote modem, *Betts* does not disclose that this assignment is based on the training process.

For at least the reason that *Betts* fails to disclose, teach or suggest the above-described features, Applicant respectfully submits that *Betts* does not anticipate amended claim 46. Therefore, Applicant requests that the rejection of claim 46 be withdrawn.

b. Claim 51

As an initial matter, Applicant notes that the rejection of claim 51 does not address the actual language of claim 51. Instead, the rejection groups together claims 46 and 51, which have substantially different claim language. Thus, the rejection of claim 51 is deficient because the Office Action does not even allege that *Betts* teaches the elements of claim 51.

Notwithstanding this deficiency of the rejection, in an effort to advance the prosecution of this application, the undersigned sets forth the following additional distinctions. Claim 51 has been amended to recite “during the training, learning a CPE selector identifier associated with the CPE modem”. Applicant respectfully submits that *Betts* fails to teach, disclose, or suggest at least this feature. Although *Betts* does state that a remote modem 18 *has* an associated address (Col. 5, lines 5-6), *Betts* does not disclose, teach, or suggest how this address is obtained. In contrast, amended claim 51 is a “method performed by a CPE modem” including the step of “training the CPE modem; during the training, learning a CPE selector identifier associated with the CPE modem”.

For at least the reason that *Betts* fails to disclose, teach or suggest the above-described features, Applicant respectfully submits that *Betts* does not anticipate amended claim 51. Therefore, Applicant requests that the rejection of claim 51 be withdrawn.

c. Claims 52-53

Since claim 51 is allowable, Applicant respectfully submits that claims 52-53 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully requests that the rejection of claims 52-53 be withdrawn.

CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 2-11, 13-38, 40-51, 54-59, and 61-66 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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